

3-11.000

PAYMENT PROCESSING INTERNAL CONTROLS

- 3-11.100 Introduction**
 - 3-11.110 Definitions**
 - 3-11.120 Standards For Internal Financial Control-Employee Responsibilities**
 - 3-11.121 Independent Verification**
 - 3-11.130 Receipt of Payments**
 - 3-11.131 Logging Checks**
 - 3-11.132 Exception Register**
 - 3-11.133 Receipt of Cash or Currency**
 - 3-11.134 Conversion of Cash or Currency to Checks**
 - 3-11.135 Security of Cash Which Cannot be Converted Immediately**
 - 3-11.140 Posting and Deposit of Payments**
 - 3-11.141 Electronic Funds Transfer**
 - 3-11.142 Direct Deposit of Payments**
 - 3-11.143 Indirect Payments**
 - 3-11.144 Private Counsel Program**
 - 3-11.145 Application of Payments for Civil Debts**
 - 3-11.146 Application of Payments for Criminal Debts**
 - 3-11.147 Reconciliation of Bank Statements**
-

3-11.100 Introduction

This policy meets the guidelines on internal control systems published by the Office of Management and Budget in Circular A-123, as amended August 4, 1986. Deficiencies in internal control policies were identified by the Office of the Inspector General, Inspections Division, during two investigations of United States Attorneys' offices conducted in Fiscal Year 1990.

3-11.110 Definitions

"Separation of duties" is defined in the United States General Accounting Office's 1983 circular entitled, Standards for Internal Controls in the Federal Government as ensuring " . . . no one individual . . . control[s] all key aspects of a transaction or event. . . ." The circular further states: " . . . duties and responsibilities should be assigned systematically to a number of individuals to ensure that effective checks and balances exist. Key duties include authorizing, approving, and recording transactions . . . and reviewing or auditing transactions . . .";

"Point of entry" means any location within a United States Attorney's office (including branch offices) where payments are first received;

"Direct payments" is defined as the actual delivery of payment instruments to United States Attorneys' offices;

"Indirect payments" is defined as those payments for which payment advice notices are received, however, the actual payment was received by another entity;

"Priority payments" are any payments requiring special handling by electronic funds transfer;

"Independent verification" is defined as the use of a non-Financial Litigation Unit employee to verify the payment processing controls in place in a United States Attorney's office that is too small to have enough employees to apply the guidelines of "separation of duties" defined above;

"Debts owed to the United States" are amounts owing to the United States, as more fully defined in 28 U.S.C. § 3002(3);

"Exception register" is a form used to record payments that are not immediately processed and deposited; and

"Lockbox" is the bank where payments are sent by the Financial Litigation Units or by debtors in the Direct Deposit Program (Debtor Statement Program).

3-11.120 Standards For Internal Financial Control-Employee Responsibilities

Internal controls are established for payments received by United States Attorneys' offices as mandated by the Federal Financial Managers' Integrity Act of 1982 (Pub.L. 97-258), specifically 31 U.S.C. § 3512(c)(1), which states that ". . . the head of each executive agency shall establish internal accounting and administrative controls that reasonably ensure that . . . all assets are "safeguarded against waste, loss, unauthorized use, and misappropriation . . ." Proper internal controls are established by ensuring that a complete separation of duties is maintained between those persons preparing check logs, those persons verifying deposits and those persons recording entries to individual debtor's records.

In order to comply with the provisions in this chapter, the United States Attorney must designate in writing appropriate personnel, which may include both Administrative and Financial Litigation Unit personnel. Senior Financial Litigation Unit employees are responsible for training other Unit employees and ensuring compliance with all internal controls. Failure to observe internal control requirements may result in indictment and prosecution.

The procedures set forth herein will ensure the initial establishment of the internal controls and an audit trail necessary for all payments received in United States Attorneys' offices. An employee shall be delegated the primary responsibility for receiving payments and preparing the check log. See USAM 3-11.131. A second employee shall be delegated the responsibility for carrying out these procedures in the absence of the employee with primary responsibility. See Separation of duties, 31 U.S.C. § 3512(b)(1).

Branch offices must follow the procedures in USAM 3-11.140 and also designate responsible personnel in writing. Branch offices must follow the procedures in USAM 3-11.144 when payments cannot be mailed to the Financial Litigation Unit on the day they are received. Branch offices must also convert cash or currency into checks in accordance with USAM 3-11.134.

Provisions for the reporting of government funds which have been misplaced or lost can be found in 28 C.F.R. § 0.39a, USAM 1-4.100. In accordance with these provisions, the United States Attorney and the Legal Counsel for the Executive Office for United States Attorneys must be notified immediately of lost or missing

funds, and an investigation must be made of each reported incidence. In addition, all allegations of misconduct or mismanagement of money must be reported to the Office of Professional Responsibility.

3-11.121 Independent Verification

In offices where it is impractical to achieve a complete separation of duties due to the number of employees in the Financial Litigation Unit or for other reasons, substitute controls shall be implemented. For example, a weekly verification of check/payment logs shall be conducted by the Assistant United States Attorney responsible for the Financial Litigation Unit, or another designated disinterested person. The person delegated responsibility for verification shall compare the deposit tickets against the check logs, at least weekly, making a notation of the date of verification and the period covered by the verification.

3-11.130 Receipt of Payments

Each United States Attorney's office is responsible for ensuring that all payments received (checks, other negotiable instruments, cash or currency) are properly handled and processed. One employee, at the point in the office where payments are first received (i.e., mail room, receptionist's desk), shall be delegated the responsibility for the initial processing of payments, whether received directly from a person or in the mail. Under no circumstances shall this initial procedure be performed by an employee of the Financial Litigation Unit. Whenever possible, the employee delegated this responsibility should perform these duties in plain view of at least one other person.

The Administrative Officer should use a separate system of internal controls for checks received for obligations other than debts owed to the United States. If the person at the place of entry is unsure whether the check should be routed to the Financial Litigation Unit or to another location or individual designated by the Administrative Officer, the check should be routed to the Financial Litigation Unit which will resolve the problem.

3-11.131 Logging Checks

This section applies to the receipt of payment instruments. The instructions for the receipt and handling of cash payments are discussed in USAM 3-11.133. The employee designated to prepare the check log shall record the amount of each payment received daily on a preprinted and sequentially numbered log sheet and produce a calculator tape showing each payment amount. If there is only one payment on the check log, then no calculator tape is needed.

Once completed, the log sheet shall be signed and the calculator tape shall then be attached to the original log and initialed and dated by the employee. The copy of the log sheet shall be filed at the point of initial receipt in the office. The original log sheet, the original calculator tape, and all payments, shall be immediately delivered by the primary person responsible for completing the check log to the Financial Litigation Unit for further processing and deposit.

The employee delegated the responsibility for verification of payments in the Financial Litigation Unit shall verify the amount and number of payments delivered to the unit, and sign and date the log sheet. A second employee shall be delegated alternate responsibility. For two or more checks a second calculator tape shall be produced by the verifier and attached to the original log. Any discrepancy, either in the number or in the amount

of payments, shown on the log sheet, or discrepancy between the two separate calculator tapes, must be immediately resolved before any further payment processing action is taken.

3-11.132 Exception Register

Checks or money orders which cannot be deposited on the day of receipt (i.e., checks returned for signature or because sufficient information is not available to process the payment) must be entered on an Exception Register. When every check to be deposited on a given day has been logged, but cannot be mailed, the check log may be used as an Exception Register.

After the Exception Register is prepared it shall be placed with the check(s) or money order(s) in a safe or locked cabinet. The Financial Litigation Unit should ensure that checks are expeditiously processed through the Lockbox. When the deposit is made, the information shall be entered on the Exception Register and the register shall be filed behind the daily log for the date the payment instruments were received. All payments identified for deposit to the Lockbox should be endorsed as soon as the item has been identified for entry on the deposit slip using a "For Deposit Only" stamp.

3-11.133 Receipt of Cash or Currency

All debtors must be advised to make payments by check, or other negotiable instrument (such as money order or cashiers check), payable to the "United States Department of Justice." Payments made to the order of the "United States Treasury" may be processed but should be discouraged. If a debtor pays in cash or currency the payment must be accepted and handled as set forth in USAM 3-11.134.

A separate cash log shall be maintained and recorded in a bound ledger. A Form USA-200 Receipt must be completed and provided to the debtor whether or not the debtor wants or requests a receipt. One copy of the receipt shall be maintained in numerical order in a separate file. The debtor shall be advised of the necessity to make all future payments by check or other negotiable instrument.

Once the cash has been converted to a negotiable instrument, the check number and amount of the check or money order shall be entered on the check log on the date of conversion and this disposition shall be entered on the cash log.

The Form USA-200 Receipt is the only receipt form approved by the Department of Justice for use by the Financial Litigation Unit.

3-11.134 Conversion of Cash or Currency to Checks

All cash or currency delivered to the Financial Litigation Unit must be converted immediately to a negotiable instrument suitable for mailing for deposit through the Direct Deposit (Lockbox) System. The date and amount of cash converted shall be entered into the cash log as described in USAM 3-11.133. Voided receipts must be maintained.

It will be necessary to make the cash or currency conversion at a financial institution or post office. If large sums of cash need to be converted, an escort shall be provided for security purposes. Each United States Attorney's office is responsible for establishing local policy on when an escort is needed. The amount of cash to be converted, the bulk of the cash, the location of the United States Attorney's office, the distance to be traveled, and the means of transportation are examples of factors to be considered when establishing a local policy.

Financial Litigation Unit personnel should contact the Administrative Officer to establish procedures for payment of the conversion fees as a litigation expense using the draft payment system. Only if cash payments are received frequently should procedures be established for payment of fees to the financial institution on a monthly or quarterly basis.

3-11.135 Security of Cash Which Cannot be Converted Immediately

Any cash or currency which cannot be converted immediately to a payment instrument acceptable for deposit through the Direct Deposit (Lockbox) System must be kept in a secure area. See USAM 3-11.133. All United States Attorneys' offices must use equipment such as safes, locked file drawers, etc., for this purpose. Procedures should be established concerning access to keys and, where applicable, changes to combination locks.

3-11.140 Posting and Deposit of Payments

All checks or money orders received for deposit shall be endorsed as soon as possible after receipt in the Financial Litigation Unit, and shall be posted daily in accordance with established procedures, as well as Department of Justice Order OBD 2110.19, dated June 23, 1986.

Deposit tickets (computerized form or Form OBD-230) shall be filled out completely with all required data. The deposit ticket shall be sequentially numbered and shall be signed and dated by the preparer and then countersigned by the employee designated to verify the deposit and the check log. The District's numeric identification code and the United States Attorney's office case number shall be written on the face of all checks or money orders in the lower left hand corner. The person responsible for preparing the deposit shall enter the appropriate deposit number and item number on the back of each check or money order.

3-11.141 Electronic Funds Transfer

Priority payments, Environmental Protection Agency Superfund payments, or payments \$50,000 and over shall be electronically (or wire) transferred. Steps should be taken to have the remitter make arrangements for a wire transfer through his/her bank. If the remitter is unwilling to electronically transfer funds, the remitter should be instructed to furnish a certified or cashier's check in lieu of a personal or company check.

3-11.142 Direct Deposit of Payments

All payments received shall be posted and deposited daily thorough the Direct Deposit (Lockbox) System. The procedures set forth in the Department of Justice Order OBD 2110.19, dated June 23, 1986, shall be followed. No payments shall be directly delivered to client agencies.

3-11.143 Indirect Payments

Indirect payments shall be promptly posted (no later than the fifth working day after receipt). These payments are to be reconciled against the district's payment tallies. The designated person performing the reconciliation shall initial and date the payment notice when the reconciliation is complete. The tallies or financial reports are to be attached to the original notification list and maintained.

3-11.144 Private Counsel Program

Financial Litigation Units in districts participating in the Private Counsel Program cannot modify financial records or post payments on civil debts. These functions are performed exclusively by the Central Intake Facility, a government contractor. Financial Litigation Units in these districts receive payments on civil debts only in the following circumstances: debtor error; initial payment on installment payment agreements; and initial or lump sum payment on debts litigated by an Assistant United States Attorney who is not assigned to the Financial Litigation Unit. The Financial Litigation Unit must forward any payment it receives to the Central Intake Facility for processing on the day it is received in the Unit.

Check logs shall be prepared by Financial Litigation Unit personnel in these districts. Mail should be delivered unopened to these units and an individual shall be designated the responsibility for carrying out these procedures in the absence of the employee with primary responsibility. The individual responsible for preparing the check log is also responsible for accepting and entering any payment not received by mail.

A second individual with a designated back-up must enter the civil payments on the Register of Direct Payments Received program. A printout should be generated and attached to the check log. The total amount of Private Counsel Program payments should be entered as "Sent Other" on the check log and "CIF" should be annotated in the space provided. The procedures described in USAM 3-11.133 and 3-11.134 must be followed if a payment is made in cash or currency.

3-11.145 Application of Payments for Civil Debts

The "United States Rule" shall be followed in applying civil payments. Under this rule, a partial payment is credited first to court costs and fees, second to accrued interest, and the balance, if any, to principal. Subsequent interest then accrues on the remaining principal, computed from the date of the partial payment. See *Woodward v. Jewell*, 140 United States 247, 248 (1891); 45 Am.Jur.2d, Interest and Usury, § 99; 47 C.J.S. Interest § 66.

In cases with a surcharge under 28 U.S.C. § 3011, the "United States Rule" applies (credit interest to the surcharge and then to the principal of the surcharge). The surcharge is paid after court costs and, by policy, before the underlying debt.

The "United States Rule" shall also be followed in applying any payments received prior to entry of a judgment, unless the debtor's obligation (or the program legislation under which it arises) expressly provides otherwise.

3-11.146 Application of Payments for Criminal Debts

The "United States Rule" is not followed when applying payments to criminal penalties imposed for offenses committed on or after January 1, 1985. For criminal penalties, payments are credited in the following priority, unless otherwise directed by the court: (1) special assessments; (2) nonfederal restitution, including accrued interest; (3) federal restitution, including accrued interest; (3) fines, including accrued interest; (4) penalties; (5) costs; and (6) attorney's fees. See 18 U.S.C. § 3612(c). The court may also prioritize payment to one victim over another. 18 U.S.C. § 3664(i). Private victims shall receive full restitution before restitution is paid to the United States. *Id.*

3-11.147 Reconciliation of Bank Statements

A designated employee shall reconcile the monthly deposits against the monthly bank statement to ensure all deposits were properly received and credited by the bank. Discrepancies in deposits should be immediately reconciled against the check logs and deposit tickets. If a deposit item was erroneously entered or is missing from the confirmed list, it must be immediately reconciled verbally and in writing to the Justice Management Division's Debt Accounting Operations Group (DAOG). A copy of the memorandum sent to DAOG should be placed with the bank statement in question. If the discrepancy has not been resolved within ten days, the designated employee shall notify the Financial Litigation Staff and follow-up with DAOG until the discrepancy has been resolved.

If the bank statement includes checks which have not been deposited (e.g., insufficient funds), the payments shall be inactivated in the case-tracking system and immediate replacement shall be demanded from the drawer of the check. Once the bank statement has been reconciled, it shall be initialled and dated, and maintained in a file by Fiscal Year.